

## § 399.32

## 14 CFR Ch. II (1–12 Edition)

the standard Hawaiian fare level (“SHFL”), which is equal to 110 percent of the first class fare in effect on July 1, 1977, as adjusted by the Board for cost increases.

[PS–92, 45 FR 24118, Apr. 9, 1980, as amended by PS–95, 45 FR 42255, June 24, 1980; PS–96, 45 FR 48604, July 21, 1980]

### § 399.32 Zone of limited suspension for domestic passenger fares.

(a) *Applicability.* This section sets forth the Board’s policy on passenger fares for scheduled service by certificated air carriers in the following areas, except to the extent that greater flexibility is set forth in § 399.33:

(1) Within the 48 contiguous States and the District of Columbia (“the Mainland”); and

(2) Between the Mainland and Puerto Rico, the Virgin Islands, Hawaii, or Alaska.

(b) *Downward flexibility.* Each carrier may set fares in each market at any amount below the SIFL. The Board will not suspend such a fare on the ground that its level is unreasonable, except in the following extraordinary circumstances:

(1) There is a high probability that the fare would be found to be unlawful after investigation;

(2) There is a substantial likelihood that the fare is predatory so that there would be an immediate and irreparable harm to competition if the fare were allowed to go into effect;

(3) The harm to competition is greater than the injury to the traveling public if the proposed fare were unavailable; and

(4) The suspension is in the public interest.

(c) [Reserved]

(d) *Upward flexibility.* Each carrier may set fares above the SIFL as follows, and where they are so set, the Board will not suspend them on the grounds that their level is unreasonable except upon a clear showing of abuse of market power that the Board does not expect to be corrected through marketplace forces:

(1) For service on the Mainland: Up to 30 percent above the sum of the SIFL plus \$14. Each time after January 13, 1981, that the Board adjusts the SIFL for cost increases in accordance

with § 399.31(c), it will adjust the \$14 figure by the same percentage rounded to the nearest whole dollar. The Board order announcing the adjustment will be published in the FEDERAL REGISTER and served on all certificated carriers, and copies will be available through the Domestic Fares and Rates Division, Bureau of Domestic Aviation, Civil Aeronautics Board, Washington, D.C. 20428.

(2) For service between the Mainland and Puerto Rico, the Virgin Islands, Hawaii, or Alaska: Up to 30 percent above the SIFL.

(e) *Fares above the zone.* Tariff filings that state fares above the applicable zone must include the data and information set forth in § 221.165 of this chapter. For peak fares, this must include a description of the carrier’s off-peak fares that are available in the market. The Board will suspend a fare above the zone that it finds not to be justified by cost or competitive factors.

[PS–94, 45 FR 40973, June 17, 1980, as amended by PS–96, 45 FR 48604, July 21, 1980; PS–101, 46 FR 11809, Feb. 11, 1981]

### § 399.33 Additional fare flexibility.

For scheduled service in the areas set forth in § 399.32(a), certificated air carriers have the following fare flexibility in addition to that set forth in § 399.32:

(a) *First class.* Carriers may without restriction set the level of first class fares.

(b) *Small aircraft.* Carriers may without restriction set the level of fares for service with aircraft designed to have a maximum passenger capacity of 60 or fewer seats.

(c) *Through service and on-line connecting service.* For through service and on-line connecting service, carriers may set their fares up to the sum of the local fares minus one tax-rounded coach ceiling terminal charge for each local fare after the first, if that level is higher than the ceiling set forth in § 399.32(d). The Board will not suspend such a fare on the ground that its level is unreasonable except upon a clear showing of abuse of market power that

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the Board does not expect to be corrected through marketplace forces.

[PS-92, 45 FR 24119, Apr. 9, 1980, as amended by PS-94, 45 FR 40974, June 17, 1980; PS-96, 45 FR 48604, July 21, 1980]

**§ 399.34 Intra-Hawaii and Intra-Puerto Rico/Virgin Islands fare flexibility.**

For scheduled service within Hawaii, and within and between Puerto Rico and the Virgin Islands, certificated air

carriers have the fare flexibility set forth in §§ 399.32 and 399.33, except that:

(a) Instead of the limits set forth in § 399.32(d), the upper limit of the zone for Puerto Rico/Virgin Islands is 30 percent above the SIFL, and for Hawaii is 30 percent above the SHFL; and

(b) The fare flexibility set forth in § 399.33(a) (first class) does not apply to service within Hawaii.

## APPENDIX A TO § 399.34—UNITED STATES-PUERTO RICO ENTITY

[Normal fares in selected markets—comparison with SIFL]

Market	Rate-making mileage	DPFI formula fare July 1977	July 1977 normal fare level				DPFI formula May 1980	May 1980 normal fare level			
			Peak		Offpeak			Peak		Offpeak	
			Mid week	Week end	Mid week	Week end		Mid week	Week end	Mid week	Week end
San Juan:											
Atlanta .....	1,547	\$130.81	.....	.....	.....	.....	\$203.53	.....	.....	.....	.....
Eastern .....			\$113	\$113	\$107	\$107	.....	\$176	\$176	\$166	\$166
Boston .....	1,674	139.04	.....	.....	.....	.....	216.33	.....	.....	.....	.....
American .....			.....	.....	.....	.....	.....	209	218	199	209
Eastern .....			122	128	116	122	.....	209	218	198	209
Chicago .....	2,072	164.83	.....	.....	.....	.....	256.45	.....	.....	.....	.....
American .....			149	149	143	143	.....	232	232	222	222
Eastern .....			149	149	143	143	.....	232	232	222	222
Miami .....	1,045	97.09	.....	.....	.....	.....	151.06	.....	.....	.....	.....
American .....			.....	.....	.....	.....	.....	121	131	113	121
Delta .....			.....	.....	.....	.....	.....	121	131	113	121
Eastern .....			78	84	72	78	.....	121	131	112	121
Pan Am (National) .....			78	84	72	78	.....	122	122	122	122
New York .....	1,597	134.05	.....	.....	.....	.....	208.57	.....	.....	.....	.....
American .....			108	114	102	108	.....	175	196	175	196
Eastern .....			108	114	102	108	.....	175	196	175	196
Pan Am .....			.....	.....	.....	.....	.....	147	147	147	147
Philadelphia .....	1,576	132.69	.....	.....	.....	.....	206.45	.....	.....	.....	.....
American .....			115	121	109	115	.....	197	208	187	197
Eastern .....			115	121	109	115	.....	175	196	175	196
Washington .....	1,565	131.97	.....	.....	.....	.....	205.34	.....	.....	.....	.....
American .....			114	120	108	114	.....	187	197	176	187
Eastern .....			114	120	108	114	.....	195	206	184	195
Pan Am (National) .....			.....	.....	.....	.....	.....	147	147	147	147

## APPENDIX B TO § 399.34—SELECTED FARE AND SERVICE DATA FOR SEATTLE-ALASKA MARKETS

Market	Rate-making mile-age	Actual July 1977 Y fare	DPFI formula fare May 1980 <sup>1</sup>	SIFL formula fare May 1980 <sup>10</sup>	Y fare as of June 1980 <sup>2</sup>		O. & D. pas-sengers Y/E Aug. 30, 1979 <sup>3</sup>	Carriers providing single plane service June 1980 <sup>4</sup>
					Alaska Airlines	Wien Alaska		
Seattle:								
Anchorage .....	1,448	\$119.00	\$193.52	\$185.14	\$159	\$159	196,630	AS/NW/WA/WC
Cordova .....	1,293	118.62	176.85	184.55	178	.....	4,330	AS
Fairbanks .....	1,533	131.00	201.85	203.81	204	204	44,910	AS/NW/WC
Gustavus (Via JNU) .....	950	109.62	140.74	170.55	138	.....	1,340	AS
Juneau .....	909	90.62	137.04	140.99	141	141	40,110	AS/WC
Ketchikan .....	680	71.62	112.96	111.43	112	112	34,970	AS/WC
Petersburg (Via KTN) .....	790	89.22	124.07	138.81	138	.....	6,870	AS
Sitka .....	862	85.62	131.48	133	133.21	.....	17,240	AS
Wrangell (Via KTN) .....	762	89.22	121.30	138.81	138	.....	4,120	AS
Yakutat .....	1,092	117.62	155.56	182.99	175	.....	1,500	AS
Kenai <sup>5</sup> .....	1,468	124.28	198.37	193.35	.....	159	2,470	WC
King Salmon <sup>6</sup> .....	1,603	167.94	209.26	261.28	.....	200	4,090	WC
Prudhoe Bay <sup>7</sup> .....	1,802	190.74	229.63	296.75	.....	273	960	WC
Kodiak <sup>8</sup> .....	1,439	119.00	192.59	185.14	.....	155	11,140	WC